



CHAIRMAN'S REPORT

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NORTH CAROLINA MARINE FISHERIES COMMISSION DEPARTMENT OF ENVIRONMENTAL QUALITY

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July 28, 2022

Director Anita MacMullen
N.C. Department of Agriculture and Consumer Services
N.C. Food and Drug Protection Division
1070 Mail Service Center
Raleigh, NC 27699-1070

Sent by email only to: Anita.MacMullan@ncagr.gov

Dear Director MacMullen,

The N.C. Marine Fisheries Commission (commission) was recently made aware of an issue regarding the fraudulent marketing and sale of foreign blue crab meat as domestic. The Commission takes such issues very seriously as they harm not only North Carolina consumers, but also the legitimate seafood dealers and commercial fishermen who participate in North Carolina's blue crab fishery. The Commission has taken steps to eliminate some of the regulations that allowed such fraudulent activity to thrive but believes that additional action is necessary to prevent further harm to North Carolina's economy. The Commission respectfully requests that the Department of Agriculture's Food and Drug Protection Division consider additional labelling requirements for repackaged crab meat that is transferred to North Carolina for sale.

Recently, several North Carolina seafood processors were found to be fraudulently marketing and selling foreign-origin crab meat as domestic blue crab. These instances ultimately led to criminal prosecutions, monetary penalties, and in some cases, incarceration. While fraudulently marketing foreign crab meat as domestic was already prohibited, it became apparent to the Commission that the existing regulations could easily be subverted. Upon inspection, processors could easily claim that they had not yet affixed the required "repacked" label but would ultimately do so prior to making the product available for sale. Absent a "whistleblower" report, such fraudulent activity was exceptionally difficult for the Division of Marine Fisheries to prove.

The Commission is particularly concerned by this behavior because it harms multiple groups in North Carolina – consumers who believe they are purchasing domestic crab meat, and those engaged in the harvest, processing and sale of legitimate domestic blue crab. The Commission took action to prevent this behavior by adopting rules to prohibit the repacking of foreign crab meat into another container in North Carolina. The rules specifically allow for the continuation of repackaging crab meat into value-added crab products like crab cakes. These new rules are subject to legislative review and are anticipated to become effective at the close of the 2022 legislative session.

The Commission was also concerned that a processor could lawfully repackage crab meat in another jurisdiction for sale in North Carolina and subsequently obscure the labelling such that it would be difficult for a consumer to determine the origin of the product being purchased. Techniques could be used to make the already-required foreign

country of origin label difficult for consumers to see and determine the origin of the product, such as using small text, or using stamped-on text or a check-off box indicating country of origin. The best defense against fraudulently marketed and sold foreign crab meat is a labeling requirement that clearly alerts the consumer that the contents are of a foreign origin. The Commission voted to develop a rule to require that any repacked crab meat container with foreign crab meat used for sale in North Carolina have a size 18-point type or larger (approximately 0.25 inches tall) permanent print statement of the country of origin on the lid and in two places that are on opposite sides of the cup, and that a check-off panel or stamped country of origin not be allowed to fulfill these labeling requirements. These requirements exceed the federal requirements for country-of-origin labelling. A copy of the proposed rule and accompanying issue paper prepared by the Division of Marine Fisheries is included with this letter.

While the Commission has authority over repacking that takes place within North Carolina, there are significant limits on its ability to regulate repacking in other jurisdictions. The proposed rule on additional labelling requirements was determined to be beyond the scope of the Commission's authority. Although the Commission enjoys broad authority for regulating and protecting the marine and estuarine resources of the State, and for setting sanitation requirements for shellfish and crustacea meat, it does not have sufficient authority to set requirements for labeling for the exclusive purpose of consumer protection.

Fortunately, it does not appear that North Carolina is without the ability to address the issue of adequate labeling of repacked foreign crab meat. At its May 26, 2022, business meeting, the Commission voted to send a letter to the Department of Agriculture to express its concerns on this issue and request assistance to close the remaining loophole in the regulations. By way of this letter, the Commission respectfully requests that additional labeling requirements be considered to further protect the integrity of North Carolina's valuable blue crab fishery and to further assure consumers in North Carolina that crab meat is properly and adequately labeled.

On behalf of the Commission, thank you for your consideration of this request. If I may be of assistance to you in this or any other matter, I can be contacted at r.bizzell.mfc@ncdenr.gov or 252-521-1306. If further details about this labeling issue are needed, please feel free to contact Marine Fisheries Commission Liaison Lara Klibansky at lara.klibansky@ncdenr.gov or 252-808-8021 or DEQ Assistant General Counsel Shawn Maier at shawn.maier@ncdenr.gov or 919-707-8118.

Sincerely,



W. Robert Bizzell, Chairman
N.C. Marine Fisheries Commission

Cc: Bill Lane, N.C. Department of Environmental Quality Deputy Secretary and General Counsel
Kathy Rawls, N.C. Division of Marine Fisheries Director
Lara Klibansky, N.C. Division of Marine Fisheries Liaison to N.C. Marine Fisheries Commission
Shawn Maier, N.C. Department of Environmental Quality Assistant General Counsel

Attachment

cb/WRB



**NORTH CAROLINA MARINE FISHERIES COMMISSION
DEPARTMENT OF ENVIRONMENTAL QUALITY**

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Wilmington
TOM ROLLER
Beaufort
SAM ROMANO
Wilmington

August 2, 2022

Chairman Monty Crump
N.C. Wildlife Resources Commission
1701 Mail Service Center
Raleigh, NC 27699-1700

Sent by email only to:
monty@gorockingham.com

Dear Chairman Crump,

The North Carolina Marine Fisheries Commission (MFC) have selected our preferred management options for Amendment 2 to the North Carolina Estuarine Striped Bass Fishery Management Plan. At our May business meeting the MFC considered all recommendations and public comment provided on this matter, and in accordance with the requirements set forth in G.S. 113-182.1, selected our preferred management options. While the MFC's preferred management options were in agreement with the majority of the WRC recommendations, there were two options where they were not. These are described below.

Achieving Sustainable Harvest for the Albemarle Sound-Roanoke River Striped Bass Stock

Option 3. Accountability measures to address TAL overages
WRC Recommended Management Option

Do not support any options as written; support the following modified option:

- If the landings in any one of the three fisheries (RRMA recreational, ASMA recreational, and ASMA commercial) exceed their allocated TAL by 5% in a calendar year, any landings in excess of their allocated TAL and 5% buffer will be deducted from that fishery's allocated TAL the next calendar year. If the payback for a fishery exceeds the next year's allocated TAL, the fishery will be closed the subsequent year with no additional payback required.

MFC Preferred Management Option

Accountability measures address TAL overages: Please note, overages will be deducted from the management area/sectors fishery(ies) TAL, not the TAL plus buffer; if paybacks exceed the next year's TAL, paybacks will be required in subsequent years to meet the full reduction amount; in situations where a TAL has been reduced from a previous year's overage, if the reduced TAL is exceeded, any required paybacks are reduced from the fisheries' original TAL, not from the reduced TAL.

- If the landings in any one of the management areas' three fisheries (RRMA recreational, ASMA recreational, and ASMA commercial) exceed their allocated TAL in a calendar year, any landings

in excess of the TAL will be deducted from that fisheries' allocated TAL the next calendar year.

The WRC recommendation above was proposed by WRC staff during FMP development with the Division of Marine Fisheries (DMF), however the inclusion of a 5% buffer over TAL does not meet the requirements of the Fisheries Reform Act (FRA). Under the FRA, the TAL must have a 50% probability of meeting sustainability in 10 years and ending overfishing in 2 years. As such, harvest above the current TAL does not meet the FRA standards. In addition, under Atlantic States Marine Fisheries Commission management, the TAL was required to be set at a level to achieve the required fishing mortality (F) within 1 year. Based on these requirements, the MFC selected the following management option.

Achieving Sustainable Harvest for the Cape Fear River Striped Bass Stock

Option 1. Striped Bass Harvest

WRC Recommended Management Option

- Allow seasonal harvest in all Cape Fear River fishing waters (open season March 1-April 30; minimum size of 18 inches total length; 2 fish daily creel limit).

MFC Preferred Management Option

- Maintain no possession provision.

The MFC selected to maintain the current no possession provision for the Cape Fear River based on the recovery and conservation of a wild spawning population in the Cape Fear River. Recent modification to the fish passage structure at Lock and Dam #1 completed in 2021, combined with positive Young of Year data indicating successful wild spawning in the system were the primary reasons for the decision. The MFC did, however, concur with the WRC recommendation for Adaptive Management, to include continued monitoring of the population and the reconsideration of the harvest allowance.

The final plan, as required in G.S. 113-182.1(e), was provided to the Department of Environmental Quality Secretary Biser for review and subsequent transmittal to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division for their review. The required 30-day review period ended July 19, 2022. At our August business meeting the MFC will review the comments received from the legislative bodies and is expected to vote on final approval of Amendment 2. The MFC appreciates the North Carolina Wildlife Resources Commission (WRC) for their continued participation in the development of the fishery management plan and for the recommendations they provided to the MFC.

Sincerely,



W. Robert Bizzell, Chairman
N.C. Marine Fisheries Commission

Cc: Margo Minkler, N.C. Wildlife Resources Commission Liaison
Kathy Rawls, N.C. Division of Marine Fisheries Director
Lara Klibansky, N.C. Division of Marine Fisheries Liaison to N.C. Marine Fisheries Commission
Shawn Maier, N.C. Department of Environmental Quality Assistant General Counsel

2022 Meeting Planning Calendar

January						
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| <ul style="list-style-type: none"> MFC ASMFC SAFMC MAFMC ASMFC/MAFMC Joint Meeting State Holiday | <ul style="list-style-type: none"> Southern Regional AC Northern Regional AC Joint Regional AC Finfish AC Habitat and Water Quality AC Shellfish/Crustacean AC Finfish/Shellfish/Crustacean AC |
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2022 Committee Assignments for Marine Fisheries Commissioners

07/27/2022

FINFISH ADVISORY COMMITTEE

Statutorily required standing committee comprised of commissioners and advisers that considers matters related to finfish.

Commissioners: Tom Roller – chair, Sam Romano – vice chair

DMF Staff Lead: Lee Paramore - lee.paramore@ncdenr.gov

Meeting Frequency: Can meet quarterly, depending on assignments from MFC

HABITAT AND WATER QUALITY ADVISORY COMMITTEE & COASTAL HABITAT PROTECTION PLAN STEERING COMMITTEE

Statutorily required standing committee comprised of commissioners and advisers that considers matters concerning habitat and water quality that may affect coastal fisheries resources.

Commissioners: XXXX – chair, XXXX– vice chair

DMF Staff Lead: Anne Deaton - anne.deaton@ncdenr.gov

Meeting Frequency: Committee can meet quarterly, depending on assignments from MFC. CHPP Steering Committee can meet a couple of times a year.

SHELLFISH/CRUSTACEAN ADVISORY COMMITTEE

Statutorily required standing committee comprised of commissioners and advisers that considers matters concerning oysters, clams, scallops and other molluscan shellfish, shrimp and crabs.

Commissioners: Sam Romano – chair, XXXX – vice chair

DMF Staff Lead: Tina Moore - tina.moore@ncdenr.gov

Meeting Frequency: Can meet quarterly, depending on assignments from MFC

CONSERVATION FUND COMMITTEE

Committee comprised of commissioners that makes recommendations to the MFC for administering funds to be used for marine and estuarine resources management, including education about the importance of conservation.

Commissioners: Sam Romano - chair, Tom Hendrickson and Robert McNeill

DMF Staff Lead: Steve Poland – steve.poland@ncdenr.gov

Meeting Frequency: Meets as needed

LAW ENFORCEMENT AND CIVIL PENALTY COMMITTEE

Statutorily required committee comprised of commissioners that makes final agency decisions on civil penalty remission requests.

Commissioners: Rob Bizzell - chair, Doug Cross and Tom Hendrickson

DMF Staff Lead: Col. Carter Witten – carter.witten@ncdenr.gov

Meeting Frequency: Meets as needed

COASTAL RECREATIONAL FISHING LICENSE ADVISORY COMMITTEE

Committee consisting of the three recreational seats and the science seat to provide the DMF advice on the projects and grants issued using Coastal Recreational Fishing License trust funds.

Commissioners: XXXX– chair, Rob Bizzell, Tom Roller, and Robert McNeill

DMF Staff Lead: Jamie Botinovch - jamie.botinovch@ncdenr.gov

Meeting Frequency: Meets as needed

NOMINATING COMMITTEE

Committee comprised of commissioners that makes recommendations to the MFC on at-large and obligatory nominees for the Mid- and South Atlantic Fishery Management Councils.

Commissioners: Robert McNeill – chair, XXXX, Tom Roller and Mike Blanton

DMF Staff Lead: Chris Batsavage - chris.batsavage@ncdenr.gov

Meeting Frequency: Typically meets once a year

STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD

Statutorily required three-person board consisting of DEQ, DMF and MFC designees who apply eligibility criteria to determine whether an applicant is eligible for a SCFL.

Commission Designee: Mike Blanton

DMF Staff Lead: Marine Patrol Capt. Garland Yopp – garland.yopp@ncdenr.gov

Meeting Frequency: Meets two to three times a year, could need to meet more often depending on volume of applications

N.C. COMMERCIAL FISHING RESOURCE FUND COMMITTEE

Committee comprised of commissioners that the commission has given authority to make funding decisions on projects to develop and support sustainable commercial fishing in the state.

Commissioners: Doug Cross – chair, Mike Blanton and Sam Romano

DMF Staff Lead: William Brantley – william.brantley@ncdenr.gov

Meeting Frequency: Meets two to three times a year

WRC/MFC JOINT COMMITTEE ON DELINEATION OF FISHING WATERS

Committee formed to help integrate the work of the two commissions as they fulfill their statutory responsibilities to jointly determine the boundaries that define North Carolina's Inland, Coastal and Joint Fishing Waters as the agencies go through a statutorily defined periodic review of existing rules.

MFC Commissioners: Rob Bizzell, XXXX, XXXX

DMF Staff Lead: Anne Deaton - anne.deaton@ncdenr.gov

Meeting Frequency: Meets as needed

SHELLFISH CULTIVATION LEASE REVIEW COMMITTEE

Three-member committee formed to hear appeals of decisions of the Secretary regarding shellfish cultivation leases issued under G.S. 113-202.

MFC Commissioners: Rob Bizzell

DMF Staff Lead: Jacob Boyd – jacob.boyd@ncdenr.gov

Meeting Frequency: Meets as needed

COASTAL HABITAT PROTECTION PLAN STEERING COMMITTEE

The CHPP Steering Committee, which consists of two commissioners from the Marine Fisheries, Coastal Management and Environmental Management commissions reviews and approves the plan, recommendations, and implementation actions.

MFC Commissioners: XXXX, XXXX

DMF Staff Lead: Anne Deaton – anne.deaton@ncdenr.gov

Meeting Frequency: Meets as needed



EDUCATION REQUIREMENTS FOR PUBLIC SERVANTS

Public Servants must complete the Ethics and Lobbying Education program provided by the N.C. State Ethics Commission within **six months** of their election, appointment, or employment. We recommend that this be completed as soon as possible, but the training must be repeated every two years after the initial session.

Since Adobe Flash was terminated on December 31, 2020, our online program is not available. A new and shorter online program will be available in the near future. The new program will be compatible with portable devices such as phones and tablets.

Live webinar presentations are being offered monthly and registration information for the live presentations can be found [here](#). These presentations are about 90 minutes long and give you the opportunity to ask questions of the speaker.

For questions or additional information concerning the Ethics Education requirements, please contact Dottie Benz at (919) 389-1383.

2022 STATEMENT OF ECONOMIC INTEREST REMINDERS:

Completed SEIs must be filed on or before April 15, 2022. If you have already filed a 2022 SEI, do not refile. The forms and instructions can be found at <https://ethics.ncsbe.gov/sei/blankForm.aspx>.

If you filed a 2021 SEI **and** you have had **no changes** since your 2021 filing, you may file a 2022 SEI No Change Form, located on the website.

You must file a 2022 Long Form if any of the following apply to you:

- a. You filed a 2021 SEI **but** you have had changes since your 2021 filing;
- b. You did not file a 2021 SEI; or
- c. You are a first-time filer or have been appointed to a new or additional position/board.

This year, the State Board of Elections and Ethics Enforcement will roll out a new electronic process for filing SEIs. That electronic filing option will be available in **early February**.

You are encouraged to file your SEI electronically. However, if you want to file your SEIs before the updated electronic version is available, hard copies are available for filing now at the link above.

New commissioners will need to file a 2022 SEI; however, if you have not had any changes since you last filed, you can use the No Change Form, which is fairly easy to complete.

Please file by April 15th to avoid fines and other penalties.

SEI HELPFUL TIPS

1. PUBLIC RECORDS. The State Board of Elections and Ethics Enforcement (State Board) is required to collect and maintain disclosures from certain persons covered by the State Elections and Ethics Enforcement Act Government Ethics Act (Elections and Ethics Act). By law, the information requested is public record and available to the public upon request. As public records, Statements of Economic Interest (SEI) are available on the Commission's website. Personal contact information, however, is not.

2. CONTACT INFORMATION PAGE. The Contact Information page, which includes your personal contact information, will not be available on the Commission's website, but is a public record.

3. CHILDREN'S INITIALS. Only list minor children's INITIALS on the SEI. List each child's full legal name on the Confidential Unemancipated Children's Form. If you are filing electronically, the form will be generated at the end of the SEI from the information that you provided on your electronic SEI. The Confidential Form is not a public record, and the State Board will not make it available to the public.

4. READ EACH QUESTION CAREFULLY. Read each question carefully and pay close attention to the time periods in each question as they do vary.

5. ANSWER EACH QUESTION. It is important to answer each question, including all applicable subparts. Even if your answer is "no" or "not applicable," make certain you answer each question. Many of the questions have "yes" and "no" boxes to check for your convenience. Incomplete SEIs may cause delays and negatively impact your public service on a covered board or as an employee.

6. WHY ARE YOU FILING. You must list the complete name of the state board or state agency employer for which you are filing the SEI. Without this information, your SEI may be delayed and negatively impact your public service on a covered board or as an employee.

7. HOW TO FILE. The State Board strongly recommends electronic on-line filing as it is secure, allows easy information updates, and gives you access to your electronic SEIs previously filed. Filing your SEI on-line is easy, quick, convenient, and reduces the chance of reporting errors. Getting started is easy. Follow the simple steps to create your own account and get access today: <https://EFILE.ncsbe.gov/> To file a paper version of the SEI, you must provide the State Board with a signed, original SEI form. Each SEI includes an "affirmation" and is a legally binding document. Faxed or emailed copies of your SEI CANNOT be accepted.

SEI Helpful Tips, continued

8. INCOME. List each source of income as requested on the SEI. The actual dollar amount is not required. Be sure to list your employer as a source of income in Question # 6 of the SEI.

9. READ CAREFULLY. Read each question carefully, as the Elections and Ethics Act requires that you disclose your financial holdings and obligations, personal property, and real property and may also include your knowledge of the holdings of both your immediate family and your extended family. "Immediate family" and "extended family" are defined terms in the Elections and Ethics Act, and those definitions are included with this document.

10. REFLECT. Think carefully about WHY you are filing, and whether it has any relationship to your position. Does your board or commission license or regulate you? For many of the boards, a subject matter expert like a licensee is needed. Answering "yes" does not prohibit your service on the board, and your perspective is valued.

11. MAKE A COPY. Make a copy of the SEI for your own records, and make a note in your calendar when you submit it, whether on-line or by mail or hand delivery. When you successfully submit your SEI electronically on-line, the final screen will provide a confirmation number and will be proof that you have satisfied your filing obligation. Please print the **confirmation screen for your records.**

12. ETHICS LIAISON. Contact your Ethics Liaison to assist you in your obligations under the Elections and Ethics Act. Your Ethics Liaison is good source of information about how to fill out your SEI.

13. ON-LINE HELP. The State Board has on-line resources to answer questions you may have about your SEI. For more information, please visit the State Board website which has education offerings.

14. DEFINITIONS. As noted above, certain terms are defined in the Elections and Ethics Act (“immediate family”). These definitions may be helpful to you in completing your SEI. A complete list of all definitions used in the Elections and Ethics Act is available on the State Board’s website, under “Ethics”. Some of the more common ones are attached to this document.

15. YOUR INTERNET BROWSER. Consider using Internet Explorer or Chrome to submit your SEI. Some users have had trouble using other browsers. **16. WE ARE HERE TO HELP YOU.** In addition to on-line resources and written materials, the State Board has expert staff ready to answer any questions you might have and assist you in completing and filing your SEI. Do not hesitate to contact us at sei@ncsbee.gov (919) 814-3600.